



I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 10/17/05 Signature: Valerie J. Sarosky  
(Valerie J. Sarosky)

Docket No.: AFMX-P01-042  
(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Fodor et al.

Application No.: 10/033195

Confirmation No.: 7969

Filed: December 28, 2001

Art Unit: 1637

For: NUCLEOTIDES AND ANALOGS HAVING  
PHOTOREMOVABLE PROTECTING  
GROUPS

Examiner: J. Riley

### TERMINAL DISCLAIMER

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The undersigned is an attorney of record for the above-identified application.  
Affymetrix, Inc. is the assignee of 100% interest in the above identified patent application.

The owner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the above-identified application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 5,489,678. The owner hereby agrees that any patent that is granted on the above-identified application shall be enforceable only for and during such period that it and the above listed patent are commonly owned. This agreement runs with any patent granted on the above-identified application and is binding upon the grantee, its successors or assignees.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the above-identified application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent

jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term.

Please charge our Deposit Account No. 18-1945 in the amount of \$130.00 covering the fee set forth in 37 CFR 1.20(d). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 18-1945, under Order No. AFMX-P01-042. A duplicate copy of this paper is enclosed.

Dated: October 17, 2005

Respectfully submitted,

By Lisa M. Treannie  
Lisa M. Treannie  
Registration No.: 41,368  
ROPES & GRAY LLP  
One International Place  
Boston, Massachusetts 02110-2624  
(617) 951-7000  
(617) 951-7050 (Fax)  
Attorneys/Agents For Applicant